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EXAMINER
KOCZO JR. M

ART UNIT	PAPER NUMBER
3745	

DATE MAILED: 04/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/632,739

Applicant

Bryant

Examiner  
Michael Kocz, Jr.

Group Art Unit  
3746



☒ Responsive to communication(s) filed on Mar 2, 2001

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-24 is/are pending in the application.

Of the above, claim(s) 1-14 and 22 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 15-21, 23, and 24 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Applicant's election, without traverse, of the group II invention in paper No. 6, is acknowledged. Claims 1 to 14 and 22 therefore stand withdrawn from further consideration as being drawn to a non-elected invention.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15 to 21, 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15 "managing" is not a meaningful step and is therefore considered as indefinite.

In claim 18, "providing" is also not a meaningful step. The claim recites the desired result of a compression ratio which is lower than the expansion ratio. However, no operating steps are recited which would cause this effect to occur.

Claim 19 refers to the "weight" of an air charge. In a flow system as recited in the claim, it is not understood how weight has any meaning and how it would be determined. Paragraph (iii) merely recites a desired result. That is, merely transferring an air charge to a power cylinder of the engine does not cause it to vary in density from less than to more than atmospheric density.

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No steps are recited which would cause this to occur. In paragraph (iv) "normal" is indefinite absent a basis of comparison. In paragraph (vii), "allowing" is not a positive step of operating an engine. This should read --expanding the combustion gas against a piston operable in...--.

Claims 20 and 21 are likewise indefinite because it is not understood how "weight" of an air charge has any meaning in a flow system.

In claims 23 and 24, there is no basis of comparison for "normal".

Because of the indefiniteness of the claims, the scope thereof cannot be positively ascertained.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15 to 17, 23 and 24, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Goto et al. (see figure 1). The air charge is selectively channeled through intercooler 4 as controlled by valve 32.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

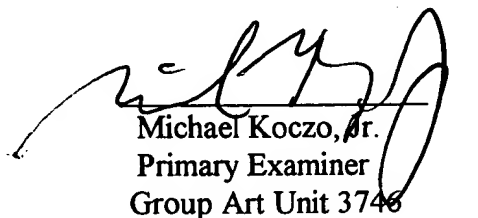
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 18, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller '934 in view of Laveran. Miller '934 discloses the invention substantially as claimed. However, Miller '934 does not disclose selectively channeling the air charge through a cooling device. Laveran discloses a supercharged engine having an intercooler bypass 9a and valve 10a for selectively channeling the air charge through the intercooler 8a in order to cool the air when required. In view of this teaching, it would have been obvious to provide the intercooler 36 of Miller with a charge air bypass.

Claims 19 to 21 will be allowed if made definite in form according to the statute.

The patent to Lysholm is cited to further show the state of the art.



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